



Friday, 29 November 2013

## **DEVELOPMENT MANAGEMENT COMMITTEE**

A meeting of **Development Management Committee** will be held on

**Monday, 9 December 2013**

commencing at **2.00 pm**

The meeting will be held in the Burdett Room, Riviera International Conference Centre, Torquay

### **Members of the Committee**

Councillor McPhail (Chairwoman)

Councillor Morey (Vice-Chair)

Councillor Addis

Councillor Baldrey

Councillor Barnby

Councillor Brooksbank

Councillor Kingscote

Councillor Pentney

Councillor Stockman

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For information relating to this meeting or to request a copy in another format or language please contact:

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# DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**  
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 1 - 3)  
To confirm as a correct record the Minutes of the meeting of this Committee held on 11 November 2013.
3. **Declarations of Interests**
  - (a) To receive declarations of non pecuniary interests in respect of items on this agenda  
**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
  - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda  
**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.  
  
(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent Items**  
To consider any other items that the Chairman decides are urgent.
5. **P/2013/1188/PA Brixham Indoor Swimming Pool, Higher Ranscombe Road, Brixham** (Pages 4 - 6)  
Proposed extension to existing Swimming Pool for use as a training area and store for pool equipment.
6. **P/2013/0462/OA Land Off, Montserrat Rise, Scotts Meadow, Torquay** (Pages 7 - 16)  
Erection of two 2 storey detached dwelling houses with associated access and parking (integral garages).

7. **P/2013/0665/PA Orestone Manor Hotel & Restaurant, Rockhouse Lane, Torquay** (Pages 17 - 22)  
Temporary siting for period of one year of a 10x26ft static caravan and surrounding fence (retrospective).
8. **P/2013/1125/MPA Snooty Fox, 89 - 91 Fore Street, St Marychurch, Torquay** (Pages 23 - 41)  
Erection of four storey block of flats containing fourteen no. 1-bed flats and thirteen no. 2-bed flats (27 flats in total) and associated parking (14 spaces for new block of flats and 8 additional spaces for existing properties) (revision to refused application ref. P/2013/0698).
9. **P/2013/1239/PA Land Adjacent To Newton Road, Edginswell, Torquay** (Pages 42 - 49)  
Construction of a public house/family restaurant (Use Class A4) with managers accommodation (Use Class C3) and staff facilities at first floor level plus car parking, landscaping and all associated development.
10. **Public speaking**  
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) before 11 am on the day of the meeting.
11. **Site visits**  
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 4 December 2013. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

**Note**

An audio recording of this meeting will normally be available at [www.torbay.gov.uk](http://www.torbay.gov.uk) within 48 hours.



## Minutes of the Development Management Committee

11 November 2013

-: Present :-

Councillor McPhail (Chairwoman)

Councillors Morey (Vice-Chair), Addis, Baldrey, Barnby, Kingscote, Pentney, Stockman and Brooksbank

### 70. Minutes

The Minutes of the meeting of the Development Management Committee held on 14 November 2013 were confirmed as a correct record and signed by the Chairwoman.

### 71. Urgent Items

The Committee considered the items in Minute 72, and not included on the agenda, the Chairwoman being of the opinion that it was urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

### 72. P/2013/0259/PA - Birds Haven, Avenue Road, Torquay

The Team Leader for Major Development advised members that completion of the Section 106 Agreement in respect of the above application had not been completed for various reasons, and the original decision stated the application should be refused if not signed within three months of the meeting. However, the Committee was advised that the Agreement was in a position to be completed and sought members' approval to issue the decision notice and complete the 106 Agreement.

Resolved

That the Section 106 Agreement be completed and the decision notice be issued.

### 73. Bishops Court Hotel, Lower Warberry Road, Torquay

The Committee considered the following applications:

- a) P/2013/0372/MPA - erection of 18 residential units (1x2 Be, 8x3 bed and 9x4 bed) in two terraces in garden area to east of Bishops Court Hotel on site of former holiday accommodation.
- b) P/2013/0400/PA - amendments to a previous planning approval for alterations and conversion of an existing grade II listed hotel into seven apartments.

- c) P/2013/0401/LB - amendments to for amendments to a previous planning approval for alterations and conversion of an existing grade II listed hotel into seven apartments.
- d) P/2013/0891/PA - demolition of existing holiday units to the rear of Bishops Court Hotel and replacement with six new residential dwellings

Prior to the meeting, Members of the Development Management Committee undertook a site visit. At the meeting Mr Frank Nixey and Anthony Eeak addressed the Committee in support of the application.

Resolved:

- (i) That the applications be approved in principle; subject to the completion of a Section 106 Legal Agreement, such agreement to include the following heads of terms:
  - 1. tying together of the applications to form an agreed phasing programme and to require reappraisal of the whole scheme in the event of changes to any of the application schemes; and,
  - 2. a mechanism to secure delivery of the schedule of works to restore the listed villa and replace the adjacent mews building; and,
  - 3. a deferred contributions clause; and,
  - 4. a commuted sum payment (contribution) which will be confirmed subject to item (ii) below; and,
  - 5. the implementation of any of these consents to have the effect of rescinding the previous consent and CLEUD
- (ii) consideration of the Section 106 Agreement to be deferred to a future a meeting of the Development Management Committee to allow officers from Spatial Planning to further negotiate with the applicant in respect of affordable housing contributions and a level of deferred contributions together with any agreed community infrastructure contributions; and
- (iii) subject to resolution of (ii) above, applications P/2013/0400/PA, P/2013/0401/LB and P/2013/0891/PA be related through the Section 106 Agreement to the principle decision. In the event of conclusion of the item (ii) above , a grampion style condition or clause to prevent implementation to be included within these consent to ensure not implementation without a valid consent and associated delivery for the works to, and adjacent to, the Listed Building.

**74. P/2013/0136 Junction Of Kings Ash Road And Spruce Way, Paignton**

The Committee considered an application for alterations to Kings Ash Road/Spruce Way to provide a new link road to the West to allow access to proposed new housing development with access to Hilltop Nursery and associated widening to Kings Ash Road to provide new vehicle lanes shared footpath/cycle way and landscape verge.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Mr Kevin Sullivan addressed the Committee against the application.

Resolved:

Conditional approval delegated to the Executive Head of Spatial Planning with the conditions set out in the submitted report and an amendment to condition 04 to include relevant phasing for delivery of replacement hedgerows. Members agreed the inclusion of an additional conditional in respect of advance stop lines for cyclists.

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Chairwoman

**Application Number**

P/2013/1188

**Site Address**

Brixham Indoor Swimming Pool  
Higher Ranscombe Road  
Brixham  
Devon  
TQ5 9HF

**Case Officer**

Carly Perkins

**Ward**

Berry Head With Furzeham

**Description**

Proposed extension to existing Swimming Pool for use as a training area and store for pool equipment

**Executive Summary/Key Outcomes**

The application is being referred to the committee because Torbay Council owns the land/buildings subject to the application and at the time of writing this report the consultation period has not yet expired. Hence to determine the application within the statutory time period it is considered expedient to refer the matter to committee.

The application seeks permission for a flat roof single storey extension to the existing Admiral Swimming Centre building. Subject to the comments of the Arboricultural Officer and any public representations, the proposal is considered acceptable and without detrimental impact to residential amenity or the character or appearance of the existing building or the wider locality.

**Recommendation**

Approval

**Statutory Determination Period**

8 weeks

**Site Details**

The application site is the Admiral Swimming Centre building to the east side of Higher Ranscombe Road. The existing building features a dual pitched roof to the main building and a flat roof to the extension to the southern elevation of the building.

**Detailed Proposals**

The proposal is for a single storey flat roof extension to the southern elevation of the building. The extension will be a continuation of the existing single storey flat roof element. There are roof lights proposed which will be hidden from view by a

parapet wall and there are no windows proposed to the side elevations. The use of the extension is for a training room and store room ancillary to the use of the existing building.

### **Summary Of Consultation Responses**

*Arboricultural Officer:* Awaiting comments.

*Building Control:* Awaiting comments.

### **Summary Of Representations**

None received to date. However at the time of writing this report the consultation expiry date has not yet expired. The expiry date for representations is the 5th December 2013. All representations received will be referred to the Committee for consideration.

### **Relevant Planning History**

P/2007/1825 Replacement of roof covering and refurbishment of external walls with replacement windows. Extension to provide new office (as revised by letter and details received 3rd December 2007) APPROVED 27.12.2007

P/1991/0407 Extension to form additional facilities (as amplified by applicant's letter 22nd April 1991) APPROVED 06.06.1991

P/1980/1121 Extension APPROVED 07/07/1980

### **Key Issues/Material Considerations**

The relevant considerations are the impact of the development on residential amenity and the character and appearance of the existing building and the wider locality.

The proposal is an extension to the existing flat roof element located to the southern elevation of the building. Views from the east and south will remain largely unchanged with the exception of the removal of the existing door and windows. The proposal will not be visible from Higher Ranscombe Road as it is positioned behind the existing flat roof element.

The changes to the exterior of the building result in very minor alterations to the appearance of the existing building and therefore it is considered that the proposal is acceptable in relation to the character and appearance of both the existing building and the wider locality.

There are several leylandi trees that line the southern boundary of the site of which five are proposed for removal. The Council' Arboricultural Officer has been consulted and his comments are awaited.

The proposal is located a minimum of 33m from residential properties and therefore is not considered to result in any serious detriment to residential amenity by reason of loss of privacy, light or by reason of being unduly dominant or overbearing.

**S106/CIL -**

The proposal is for training and storage for pool equipment and is for a very limited floorspace, hence it is not considered that the development will have a discernible impact on local community infrastructure demands.

**Conclusions**

Subject to the comments of the Arboricultural Officer and any public representations, the proposal is considered acceptable and without detrimental impact to residential amenity or the character or appearance of the existing building or the wider locality.

**Relevant Policies**

NPPF National Planning Policy Framework  
BES Built environment strategy  
BE1 Design of new development

# Agenda Item 6

**Application Number**

P/2013/0462

**Site Address**

Land Off  
Montserrat Rise  
Scotts Meadow  
Torquay  
Devon  
TQ2 7GP

**Case Officer**

Matt Diamond

**Ward**

**Description**

Erection of two 2 storey detached dwelling houses with associated access and parking (integral garages).

**Executive Summary/Key Outcomes**

The proposals are to erect two, four bedroom detached dwellings, with associated access, on open land to the east of Montserrat Rise on the northern edge of Torquay. The southern part of the site and majority of land in the fields to the east is allocated for housing development in the Adopted Torbay Local Plan 1995-2011 ('the Local Plan'). The northern part of the site is within an Urban Landscape Protection Area (ULPA) skirting the northern edge of the town in this area. Vehicular access would be provided from Montserrat Rise, which would be extended by approximately 33 metres into the site.

The principle of the development is considered acceptable, as part of the site is allocated for housing development, so the principle has already been established here. The part within the ULPA is not considered to offer significant benefit to the urban environment, this is a small part of the ULPA and the designation will be predominantly retained as an open element in the townscape, providing a buffer between Torquay and the rural hinterland beyond Kingskerswell Road. Furthermore, the development would allow pedestrian access into the remaining fields to the east for the benefit of the public.

The design is considered acceptable and in keeping with the pattern of development in Montserrat Rise; appearance and landscaping are reserved matters. There would be no impact on local highways or the amenity of neighbouring properties. If the application is permitted, a condition should be added requiring the submission of a Construction Method Statement to minimise nuisance to local residents and highway users during the construction period.

A number of protected and priority species, including badgers, have been identified either on or in close proximity to the site. Mitigation and enhancement

measures have been included in the information supporting the application and details of these should be secured by condition if the application is permitted. All these measures should be carried out by, or in the presence of, a suitably qualified ecologist.

A section 106 agreement is being prepared to secure £13,650.00 contribution towards community infrastructure.

### **Recommendation**

Conditional approval delegated to the Executive Head of Spatial Planning in order to resolve the detailed wording of the conditions; subject to signing section 106 agreement within 3 months of the Committee securing £13,650.00 contribution towards community infrastructure.

### **Statutory Determination Period**

The application was validated on 03.05.2013. The 8 week determination date was 29.06.2013. The delay has been a result of waiting for detailed ecological information from the applicant. Therefore, an extended time period will be agreed with the applicant in writing prior to issuing the planning decision notice in accordance with article 29 paragraph (2)(c) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

### **Site Details**

The site is an area of open space to the east of Montserrat Rise in the Barton area of Torquay. The site area is 0.16 hectares. It comprises a section of steeply sloping field bordered by species-poor hedgerow, dense scrub and tall ruderal plants and a small, flat fenced area of poor semi-improved grassland.

Montserrat Rise ends adjacent to the western site boundary. There is no access to the site from Montserrat Rise.

The site is bounded by residential properties in Montserrat Rise to the west, stable buildings and a dwelling off Kingskerswell Road to the north, and the remaining part of the sloping field to the south and east, with residential properties in Leeward Lane further south.

An Ecology Report was submitted with the application, which states the habitat on the site is suitable for a number of protected species, such as reptiles and birds. Great green bush cricket was recorded on the site, which is a Devon Biodiversity Action Plan priority species. A main badger sett and numerous outlier setts are present about 15 metres south of the site within the hedgerow. The site is likely to be used by foraging bats, but it is unlikely to be of local importance due to its limited extent and lighting from adjacent houses and street lights.

The northern part of the site is within an extensive area of land to the south of

Kingskerswell Road allocated as the Scotts Bridge/Barton Urban Landscape Protection Area (ULPA) within the Local Plan. The southern part of the site is allocated for housing as part of Scotts Bridge/Barton Phase 2 within the Local Plan.

### **Detailed Proposals**

The proposals are to erect two, four bedroom detached dwellings on the site. Montserrat Rise would be extended 33 metres into the site and the dwellings would be sited to the north. They would follow the general building line of the existing dwellings to the north of Montserrat Rise. The dwellings would include integral garages and have raised decking at first floor level to the rear providing access to raised gardens.

The application has been submitted in outline, but seeks permission for the reserved matters of access, layout and scale. Appearance and landscaping are reserved.

### **Summary Of Consultation Responses**

Highways: No objection

South West Water: No objection or comment

Engineering - Drainage: The applicant has indicated that surface water would be disposed of to the main sewer and South West Water has confirmed acceptance of this. However, the surface water sewer system in this area of Torquay discharges to the Aller Brook storage lagoon, which was constructed as part of the overall Willows development and was sized accordingly. The number of properties that now drain to the storage lagoon now exceeds the original design and therefore it would be beneficial on flood risk grounds that the developer investigates a sustainable drainage design for the development. If this is not possible surface water discharge from the development should be limited to the greenfield runoff rate.

Arboricultural Officer: The existing vegetation on site offers no arboricultural constraint to the build with a linear scrub hedge forming the only vegetative feature on site. Subject to relevant wildlife considerations and mitigation this poses no constraint on arboricultural merit to the proposal. Recommend all necessary habitat and wildlife surveys should be undertaken and any mitigation measures enacted in their entirety. The landscaping plan requires two specimen trees to be planted at the south end of the site.

### **Summary Of Representations**

8 objections have been received. The following material considerations have been raised:

- Impact of more traffic and parking on local highways
- Impact of construction vehicles on residential amenity, local highways and child safety
- Impact on wildlife, including badger sett, slow worms and birds
- Overlooking

### **Relevant Planning History**

None

### **Key Issues/Material Considerations**

The key issues are:

1. Principle of Development
2. Design (access, layout and scale)
3. Impact on Amenity of Neighbouring Properties
4. Impact on Local Highways
5. Car Parking
6. Impact on Wildlife
7. Drainage

#### **1. Principle of Development**

The principle of the development is considered acceptable. Whilst part of the site is located within an Urban Landscape Protection Area (ULPA), the associated Local Plan Policy L5 does not preclude all development, provided it would not seriously harm the value of the area as an open element within the townscape and the contribution it makes to the quality of the urban environment. It is considered that the site offers no significant benefit to the urban environment as open space. However, development of the site would allow local residents to access the fields to the east as amenity open space, with the views on offer across the town. In addition, the development offers the opportunity to carry out ecological enhancement measures to the benefit of the wider area.

Whilst a large part of the open land to the east is allocated for housing, the developer, who owns this land, has stated that a significant proportion of it is undevelopable, due to the steep topography and other constraints. Therefore, it is likely that some of the land envisaged for housing in this area will remain as open space.

A material consideration in assessing the principle of the development is the recent appeal decision for Scotts Meadow, which allowed housing development on an ULPA. In addition, the southern part of the site is within the housing allocation mentioned above, where the principle of development is already accepted. The front part of the dwellings, the driveways and the access road would be within the area allocated for housing, whereas the rear part of the dwellings, the raised decks and gardens would be within the ULPA.

As such, given the limited impact on the ULPA and the adjacency of the housing allocation and existing development on Montserrat Rise the principle is considered acceptable.

## **2. Design (access, layout and scale)**

The application seeks approval of the access, layout and scale of the dwellings, whereas appearance and landscaping are reserved matters.

The access arrangements are considered acceptable, as they would simply consist of an extension of the existing road. A pedestrian access should be provided at the end of the extended road, so that residents can access the fields to the east. This should be a condition of planning permission if granted.

The layout of the dwellings is acceptable, as they follow the established building line on Montserrat Rise.

The scale of the dwellings is acceptable, as they are consistent with the existing dwellings on Montserrat Rise.

Therefore, the access, layout and scale of the proposed development are considered acceptable in design terms and in accordance with Local Plan Policies BES and BE1.

## **3. Impact on Amenity of Neighbouring Properties**

Whilst the owners of Nos. 12 and 27 Montserrat Rise have raised concerns of overlooking, it is considered that the proposals would not harm the residential amenities of these or other properties in this regard. There might be an opportunity to overlook the rear garden of No. 27 Montserrat Rise from the rear decking of the adjacent new dwelling, but this could be overcome with screening along the edge of the decked area and/or planting along the boundary. These matters would be addressed as part of the reserved matters application for appearance and landscaping.

## **4. Impact on Local Highways**

Whilst a number of objectors have raised concerns with the impact of the development on local access and parking, it is considered that two dwellings would not have a significant additional impact. The Highways department has also raised no objection.

Therefore, the proposed development is acceptable from a highways perspective and the development accords with the relevant Local Plan Policy T26.

## **5. Car Parking**

The proposed dwellings include integral garages and driveways. There would be space to park two cars off-street for each of the dwellings. Therefore, the proposals accord with the Council's parking standards set out in Local Plan Policy T25.

## **6. Impact on Wildlife**

The Ecology Report submitted with the application identifies a number of protected and priority species that are either on the site or could realistically be present. In addition, it identifies a main badger sett and numerous outlier setts in close proximity to the site to the south. Full badger surveys were undertaken in 2011 and 2012.

The Ecology Report includes a mitigation and enhancement strategy to address the protected and priority species either present or likely to be present. In the case of badgers, it recommends a re-survey is undertaken before development commences, various mitigation measures are put in place during construction and planting mixed native shrubs of potential value to badgers around the sett as a barrier and foraging habitat.

It is considered that the proposed development is acceptable provided a detailed mitigation and enhancement strategy is made a condition of planning permission, as well as a badger survey before development commences.

The mitigation and enhancement strategy could take the form of a Landscape and Ecological Management Plan (LEMP) and include proposals to enhance and manage the remaining fields to the east for increased biodiversity gain. The mitigation and enhancement strategy should include timing of ecological works and require the involvement of a suitably qualified ecologist at all stages. It is considered that the mixed native shrub planting for badgers should be planted before development commences on site and it should include some larger specimens, so that it is in place before any existing habitat is removed. This planting should be undertaken following the advice of a suitably qualified ecologist.

In addition, should the application be permitted, a condition is required for a Construction Method Statement in order to minimise nuisance to local residents and highway users. This should also include ecological mitigation measures that are followed throughout the construction period to ensure there is no harm to protected and priority species during construction.

Provided the above measures are secured by condition, the proposed development is considered to accord with the relevant Local Plan Policy NC5.

## 7. Drainage

The application proposes to discharge surface water to the main sewer and South West Water does not object to this. However, the Engineering - Drainage department has confirmed that the number of dwellings that drain to the Aller storage lagoon via the main sewer now exceeds its original design. Therefore, it would be beneficial on flood risk grounds that a sustainable drainage system is investigated first and only if this is not possible should the development connect to the main sewer. If the former is not possible then surface water should be attenuated in order to limit surface water discharge to the greenfield runoff rate. This approach accords with Local Plan Policy EPS and paragraph 103 of the NPPF. Therefore, should the application be permitted, a suitable condition is required to secure this.

### **S106/CIL -**

The following contributions are required in accordance with Policy CF6 of the Local Plan and the Planning Contributions and Affordable Housing SPD Update 3:

£100.00 - Waste Management (Site Acceptability)  
£7,220.00 - Sustainable Transport (Sustainable Development)  
£940.00 - Lifelong Learning - Libraries (Sustainable Development)  
£4,740.00 - Greenspace and Recreation (Sustainable Development)

TOTAL = £13,000.00

TOTAL + 5% Administration Charge = £13,650.00

In addition, a contribution of £2,600.00 is required towards the South Devon Link Road (SDLR) in accordance with the 'Third Party Contributions towards the South Devon Link Road' report adopted by the Council on 6 December 2012. This must be subtracted from other contributions, taking into account the recommended order of priority in the SDLR report. Therefore, the required contributions would be apportioned as follows, where the SDLR contribution shall be subtracted evenly from the sustainable development contributions which have lower priority:

£100.00 - Waste Management (Site Acceptability)  
£2,600.00 - SDLR  
£6,353.33 - Sustainable Transport (Sustainable Development)  
£73.33 - Lifelong Learning - Libraries (Sustainable Development)  
£3,873.33 - Greenspace and Recreation (Sustainable Development)

TOTAL = £13,000.00

TOTAL + 5% Administration Charge = £13,650.00

A section 106 agreement is being prepared to secure these contributions.

Justifications:

The contribution towards waste management is justified in paragraph 2.18 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6) and will pay the cost of providing waste and recycling bins to the proposed dwellings. It also complies with Local Plan Policy W7.

The contribution towards the SDLR is justified in Appendix 1 of the 'Third Party Contributions towards the South Devon Link Road' report adopted by the Council on 6 December 2012 and is based on an assessment of the impact that the development would have on the road.

The contribution towards sustainable transport is justified in paragraphs 4.12-4.24 of LDD6 and will be used towards improving the local cycle network. The NPPF and Local Plan Policy T2 promote sustainable transport modes. The proposed dwellings would generate additional trips and should therefore contribute toward sustainable transport in the area.

The contribution towards lifelong learning is justified in paragraphs 4.47-4.51 of LDD6 and will be used towards the cost of improving provision at Torquay Library, including upgrading IT equipment. The proposed dwellings would place additional demand on the services provided by Torquay Library and the contribution will ensure these services are provided with funding to mitigate the proposed development.

The contribution towards greenspace and recreation is justified in paragraphs 4.52-4.58 of LDD6 and will be used towards improving maintenance, management and equipment at existing facilities within easy walking distance of the site. The dwellings would place additional demand on these facilities and the contribution will ensure these facilities are provided with funding to mitigate the proposed development.

### **Conclusions**

In conclusion, the principle of the development is considered acceptable, as part of the site is allocated for housing and the remaining part in the ULPA is a small part of the ULPA and its loss is not considered to harm the value of the ULPA and its contribution to the urban environment. In addition, the development would allow pedestrian access to the remaining fields to the east of the site for amenity purposes and, by condition, would provide biodiversity enhancements to the land to the east.

Whilst appearance and landscaping are reserved matters, the proposed design is acceptable and there would be no harm to residential amenity or local highways

beyond the construction period. Whilst protected and priority species have been identified on and close to the site, including a main badger sett and outlier setts, mitigation and enhancement measures have been put forward and details of these should be secured by condition of planning permission if granted.

**Condition(s)/Reason(s)**

01. Reserved matters (appearance and landscaping)
02. Construction Method Statement (incorporating ecological mitigation measures)
03. Tree/hedgerow protection
04. Materials
05. Surface Water Drainage
06. Car parking provided before occupation
07. Pedestrian access from road to fields to east
08. Ecological mitigation and enhancement strategy/LEMP
09. Planting (timing)
10. External lighting
11. Bin and cycle storage provided

**Relevant Policies**

HS - Housing Strategy  
H1 - New housing on identified sites  
H9 - Layout, and design and community aspects  
H10 - Housing densities  
H11 - Open space requirements for new housing  
CF2 - Crime prevention  
CF6 - Community infrastructure contributions  
R12 - New recreational footpaths  
LS - Landscape strategy  
L5 - Urban Landscape Protection Area  
L8 - Protection of hedgerows, woodlands and o  
L9 - Planting and retention of trees  
NCS - Nature conservation strategy  
NC5 - Protected species

EPS - Environmental protection strategy  
EP5 - Light pollution  
BES - Built environment strategy  
BE1 - Design of new development  
T25 - Car parking in new development  
T26 - Access from development onto the highway

# Agenda Item 7

## Application Number

P/2013/0665

## Site Address

Orestone Manor Hotel & Restaurant  
Rockhouse Lane  
Torquay  
Devon  
TQ1 4SX

## Case Officer

Mr Alistair Wagstaff

## Ward

St Marychurch

## Description

Temporary siting for period of one year of a 10 x 26ft static caravan and surrounding fence (retrospective).

## Executive Summary/Key Outcomes

Permission is sought for the retention of a static caravan and fence screen in the grounds of the Orestone Manor Hotel, for a period of 12 months.

The development proposed would not normally be supported in this location as a permanent structure. This is because the development would conflict with policies L4 Countryside Zone, L2 Areas of Great Landscape Value, BES Built Environment Strategy, BE1 Design of New Development and BE2 Landscape and Design.

Consideration has been given to the economic situation as the siting of the caravan for a temporary period is to help the hotel business grow and diversify. It is on this basis, and with the application being for a temporary period, that the impact of the development on the surrounding area and Countryside Zone has been considered.

Given the limited visibility of the caravan from the wider area and its impact when viewed in the wider landscape it is considered that its retention for a further 12 months is acceptable. The support that the caravan provides as accommodation for staff at the hotel and for the development of the hotel business is also a material consideration.

However, the continuation beyond this period is not considered appropriate. As such Members authority to take enforcement action, if necessary, to remove the caravan after the 12month period is requested by officers.

## Recommendation

Subject to a site visit from Members;

1. That Temporary Planning permission be granted for a period of 12 months from the date planning permission is issued.

2. That authority be granted to officers to take planning enforcement action in the event that the caravan is not removed after the expiry of the 12 month period.

### **Statutory Determination Period**

8 week determination date expires 30th November.

### **Site Details**

Orestone Manor is an attractive Edwardian building in use as a Hotel. It is situated on Rock House Lane, the application site is a small parcel of land located within the wider curtilage of the Hotel.

The application site is steeply sloped, running downwards from the North-West to the South-East. It is located to the rear of the hotel in an area of land currently in use as a vegetable garden. The wider Hotel curtilage is bounded on all sides by mature trees. The application site is not visible from Rock House Lane, it is however visible from Ashley Priors Lane and the area of open countryside located between Ashley Priors Lane and the hotel site.

### **Detailed Proposals**

The proposal is retrospective, for the siting of a static caravan measuring 10x26ft and a length of fencing 8.2m in length measuring 2.5 metres in height at its North extent, raising to 3.5 metres on its South. The caravan is raised off the ground by 1.2 metres at the southern extent, due to the lie of the land.

The caravan is for use as staff accommodation. The applicant has advised this is not for living accommodation but is used as a staff room, private space for staff working split shifts who do not wish to return home and for occasional over night accommodation for staff during events such as weddings.

### **Summary Of Consultation Responses**

None Received.

### **Summary Of Representations**

10 representations have been received 1 letter of support (from the applicant) and 9 objections. The objections include 1 from Ashley Priors Amenity Company (local landowner and residents association).

Key issues identified in the representations include:

- Inappropriate development in local area and in proximity to historic building and its landscaped setting
- Impact on Visual amenity, Countryside Zone and adjoining Area of Great Landscape Value (AGLV)

- Impact upon character and appearance of the area
- Precedent set by development
- No business case for development
- Caravan has already been in place for 11 months without consent
- Lack of community consultation
- Another area of fencing has been erected
- Siting is to be permanent

### **Relevant Planning History**

P/2009/0612            Change of use to single private residence. Refused

### **History relating to Caravan**

Pre-application discussions have been undertaken since 2012, prior to the siting of the caravan. Officers have directed the applicant toward the use of ancillary buildings on site for staff purposes, but have also given consideration towards the siting of the Caravan. It was advised that officers would consider the temporary siting of a caravan for a period of two years, but would not be supportive for a longer period of time.

During the course of this process the owners installed the caravan, the Councils Planning Enforcement team became involved and the current application has now been submitted to enable a formal decision to be taken.

An onsite meeting has been undertaken during the course of the application. The hotel owner has advised that the caravan is not living accommodation but is used as a staff room, private space for staff working split shifts who do not wish to return home and for occasional over night accommodation for staff during events such as weddings.

The caravan is needed for a temporary period while the business is growing and the hotel attempts to diversify the business, which currently principally attracts event bookings and use as overnight accommodation.

During the site meeting a further area of high fencing was seen by the officer, who advised the applicant that a separate planning permission would be required for the fencing.

### **Key Issues/Material Considerations**

The key issues under consideration relate to the principle of the siting of the caravan and screening fencing, economic considerations relating to its temporary siting, the landscape and visual impacts created by the development and the precedent set by the development.

### **Principle and Planning Policy -**

The type and form of the development proposed would not be supported in this location as a permanent structure. It would conflict with the requirement of

policies L4 Countryside Zone. Given the close proximity to the Area of Great Landscape Value it is also considered that the development would not maintain or enhance the special Landscape Character of the AGLV. It would also conflict with policies BES Built Environment Strategy, BE1 Design of New Development and BE2 Landscape and Design.

However, there is relatively restricted visibility of the structure, with its associated screening. Consideration therefore needs to be given as to whether for a temporary period, the structure can be allowed for its intended purpose.

#### **Economic considerations -**

While no formal justification has been provided by the applicant to support the application, as set out in the 'History relating to Caravan' section above, the applicant, has set out why the caravan is needed for a temporary period to help grow and expand the business.

In 2009 planning permission (P/2009/0612) for change of use of the Hotel to a single private residence was refused due to the impact the change of use would have on the local economy and the wider tourism offer. Given this position and the Councils continued desire to support local businesses and the Tourism industry, aiding the hotel business to grow and develop is an important material consideration.

#### **Landscape and Visual Impact -**

Given the limited size of the structure when viewed as part of the wider landscape and its limited wider visibility, its retention is considered to be acceptable, but only on the basis of its limited duration.

The caravan and fence screen are not visible from Rockhouse Lane, it is also not visible from the majority of the hotel grounds. The development is largely screened from the surrounding area by the extensive mature tree coverage both within and surrounding the site. It is however visible from the valley bottom to the south and Ashley Priors Lane across the valley. There has been significant objection from the residents and landowners in this area.

From these locations the screening fence obscures most of the caravan, but the fencing is its self noticeable in the surround context. The front of the caravan is significant in its local prominence given the current void under it which raises it up from the ground level. The applicant has advised that it is his intention to fence in this void in the same manner as the side of the caravan. This work has not been undertaken due to awaiting the determination of the application. It is considered that should this work be undertaken that the visual impact on the surrounding area would be reduced.

From the valley bottom to the south and Ashley Priors Lane across the valley the existing tree coverage does help obscure and limit views from these areas,

however, from a number of vantage points the caravan and fence is clearly visible.

It is noted that the caravan has already been in place for a period of nearly 12 months. Given the limited size of the caravan when viewed as part of the wider landscape and its limited wider visibility, its retention is considered to be acceptable for a further limited period of time, but the permanent siting of this caravan would be unacceptable.

**Precedent set by the development -**

Significant concern has been expressed over the potential precedent that could be set by the granting of this application. It is not considered that the granting of a temporary consent would set any precedent for further development in the area. All applications are considered on their own merits. This application is for temporary siting only with a number of other material considerations that distinguish this from further applications to site caravans in sensitive landscape environments.

**S106/CIL -**

Not applicable given the temporary nature of the application.

**Conclusions**

The permanent inclusion of this development within the hotel grounds and the Countryside Zone would not be supported in policy terms. However, as a temporary measure to help facilitate the development of the hotel business which contributes to both the local economy and tourism offer of the Bay, it is considered acceptable. On Balance it is considered that a temporary 12 month planning permission be granted, since the caravan has already been on site for approximately 12 months.

**Enforcement-**

Given that the Caravan has already been in place for nearly a year the imposition for a further two years was considered to be too significant. Officers have recommended to the applicant that this period be reduced to a year. The applicant has accepted this and the application has been amended and re-advertised. To ensure that the impact of the development is limited authorisation is sought from Members for Enforcement action to be taken should the caravan not be removed following the expiry of the 12 months permission.

**Condition(s)/Reason(s)**

1. The planning permission hereby granted is for a temporary period of 12 months. On the 366th day following the grant of planning permission all use of the caravan shall cease. Within 6 weeks of the end of the temporary planning permission period the caravan and associated structures, namely the fencing shown on the approved plans and the fencing required by condition 2, shall have

been permanently removed from the site (area shown edged in red on the approved plan) and also the wider hotel site (areas shown edged in blue on the approved plans). In addition, within 6 weeks of the end of the temporary planning permission period the site area must be returned to its former condition.

Reason: The proposed development is not considered appropriate as a permanent addition to the hotel grounds and the wider Countryside Zone and in accordance with policies BES, BE1, BE2, LS, L2 and L4 of the Saved Adopted Torbay Local Plan 1995-2011

02. Within 6 weeks of the grant of planning permission, hereby given, a fence shall be installed along the length of the south elevation of the caravan shown on the approved plan 2738.1 at a height of between 1.2 metres and 1.5 metres. The fence shall be retained until the expiry of the temporary planning permission hereby granted.

Reason: To improve the visual appearance of the caravan during its temporary sitting and in accordance with policies BES, BE1, BE2, LS, L2 and L4 of the Saved Adopted Torbay Local Plan 1995-2011

### **Relevant Policies**

- TUS Tourism strategy
- TU3 New tourist facilities elsewhere
- L4 Countryside Zones
- LS Landscape strategy
- BES Built environment strategy
- BE1 Design of new development
- BE2 Landscaping and design

# Agenda Item 8

**Application Number**

P/2013/1125

**Site Address**

Snooty Fox  
89 - 91 Fore Street  
St Marychurch  
Torquay  
Devon  
TQ1 4PZ

**Case Officer**

Matt Diamond

**Ward**

St Marychurch

**Description**

Erection of four storey block of flats containing fourteen no. 1-bed flats and thirteen no. 2-bed flats (27 flats in total) and associated parking (14 spaces for new block of flats and 8 additional spaces for existing properties) (revision to refused application ref. P/2013/0698)

**Executive Summary/Key Outcomes**

The proposals are to build a four storey block of flats comprising 14 no.1-bed flats and 13 no. 2-bed flats (27 in total) on undeveloped land behind the Snooty Fox public house, Fore Street, St Marychurch. This is a revised scheme following the refusal of application P/2013/0698.

Planning permission was obtained in 2005 to redevelop the wider area behind the Snooty Fox, but this part of the site has remained unimplemented. The applicants have cited economic factors for this and consider flats to be more economically viable. Whilst the application seeks 8 more units on this part of the site than the 2005 permission, the number of bed spaces would remain the same, at 40 bedrooms, due to the smaller size of the units.

The design of the proposed development is considered to be acceptable. It would be orientated to face the informal parking area behind the Snooty Fox, which would enhance the safety and security of the area through natural surveillance. The site is large enough to accommodate a building of this scale; its footprint would be slightly smaller than the substantial extension buildings that previously occupied the site and it would be lower in height than the Snooty Fox. Its third (top) storey would be set back from the front and rear elevations to be less visible at ground level, it also steps down in height to three storeys to the east to fit in with the adjacent property. It would have a flat roof and contemporary architecture. It would be primarily rendered white, which fits in with the character of the area.

The impact of the proposed development on the amenities of neighbouring

properties has been assessed, with particular attention given to Nos. 4C, 4 and 6 Rowley Road to the south of the site which are at a lower level. A substantial wall provides screening between the site and these properties, and this would be retained in the proposals. The design includes privacy screens on the rear balconies to avoid overlooking of these properties. It is considered that the proposed development would not have an adverse impact on the outlook, privacy, daylight and sunlight of these or other properties.

This application has responded to the reasons of refusal of the previously refused application (ref. P/2013/0698) by relocating the building 2.2 metres further away from the rear boundary wall and adjoining lower level properties on Rowley Road, and increasing car parking provision from 11 to 14 spaces. This has improved the relationship of the development with the adjoining properties and ensured one parking space is available for each 2-bed flat. It has also improved the level of amenity provided to the rear ground floor flats.

The proposed development would be a low car development, with 1 parking space for each of the 2-bed flats plus 1 visitor space. Whilst no parking would be available for the 1-bed flats, this is acceptable in this location due to the close proximity of the District Centre and opportunities to use public transport. A Travel Plan would need to be conditioned to encourage the use of sustainable modes of travel. Cycle parking would be provided, but a condition is required to increase provision from 14 to 20 spaces. Direct access from the site to the district centre would be possible using the route to the side of the Snooty Fox.

An independent viability assessment has been carried out concluding that it would be unviable to provide any affordable housing in the scheme. However, it is viable to provide £42,745.50 towards site acceptability and sustainable development contributions. In this case officers have taken the unusual step of considering using the funds to part gap fund the project for the redevelopment of Pavor Farmhouse, to the north of the site, which is within the same ownership. This site is a derelict listed building that recently gained planning permission to convert it into two dwellings. However, it requires external funding in order to be developed, given the viability gap of some £90,000.

Having given consideration to the merits of the scheme, in relation to, i) the provision of 27 units of modern residential accommodation, ii) the improvement of the existing built environment, iii) the resolution of the amenity impact on neighbouring occupiers, iv) the provision of an appropriate level of car parking and v) the opportunity to restore Pavor Farmhouse; the scheme is considered to be acceptable for planning approval.

### **Recommendation**

Conditional approval delegated to the Executive Head of Spatial Planning to detail the wording of conditions and to add any further conditions as necessary; and, subject to the signing of a section 106 agreement securing £42,745.50

towards the redevelopment of Pavor Farmhouse as enabling funding and including a clause for the completion of a schedule of works to Pavor Farmhouse prior to the completion of the Snooty Fox development. The agreement to be signed within 13 weeks of the valid application being submitted, or the application be refused for the lack of a s106 agreement.

### **Statutory Determination Period**

The application is a major application because the development comprises more than 10 dwellings. The application was validated on 05.11.2013. The 13 week determination date is 05.02.2014.

### **Site Details**

The site is a backland site to the rear of the Snooty Fox public house, Fore Street, St Marychurch. The area of the site is 0.14ha. It formerly comprised a number of large rear extensions to the Snooty Fox that were used as function rooms in the past, but had been disused and semi-derelict for a number of years. These buildings have been demolished recently leaving rough open ground and exposing the remaining rear extensions to the Snooty Fox. To the north, the site includes an informal parking area used by occupiers of the surrounding residential properties, including Colsons Cottages which front onto the site to the north. Vehicular access is provided via an unsurfaced track linking to Petitor Road to the northeast. The site has an untidy appearance, which is hindered further by the unattractive appearance of the rear of the Snooty Fox.

The site is bounded by: Colsons Cottages and the rear gardens of properties fronting Petitor Road to the north; the access track and side elevation of a recently developed residential property to the east; the rear gardens of Nos. 4C, 4 and 6 Rowley Road (semi-detached houses) and blank rear elevation of Rowley Court (residential courtyard development) to the south; and the rear of the Snooty Fox and other three storey buildings fronting Fore Street to the west. Two other residential properties are accessible from the informal parking area to the west of the site: 1 and 2 Petitor Apartments.

A high stone wall topped with ivy runs along the southern boundary of the site adjacent to Nos. 4C, 4 and 6 Rowley Road. These properties are approximately 2 metres lower than the site, with part raised rear gardens. The wall is approximately 4 metres high measured from the site and just over 6 metres high measured from the ground level of Nos. 4C, 4 and 6 Rowley Road. The top of the wall is generally level with the eaves of these properties.

The site is located within St Marychurch District Centre and the St Marychurch Conservation Area, as defined in the Adopted Torbay Local Plan 1995-2011 ('the Local Plan'). The site is also located within a Traffic Management Zone (TMZ).

### **Detailed Proposals**

The proposals are to erect a four storey block of flats comprising 14 no. 1-bed

flats and 13 no. 2-bed flats (27 in total), with associated car parking.

The application is the first revision of previously refused application ref. P/2013/0698. It proposes to relocate the building 2.2 metres further forward on the site, away from Nos. 4C, 4 and 6 Rowley Road. It also proposes 14 car parking spaces for the flats instead of 11.

As before the building would be sited in the same location as the former extensions, but would cover a smaller area than the extensions being between 5 and 7 metres away from the southern boundary wall. The building would step down to three storeys to the east behind 6 Rowley Road to fit in with the height of the adjacent residential property. The third floor would be set back from the front and rear elevations, so that it is less apparent/visible at ground level. There would be 8 flats on each of the ground, first and second floors (4 to the front and 4 to the rear) and 3 flats on the third (top) floor.

The rear ground floor flats would have small gardens adjacent to the boundary wall, whilst the flats above would have balconies with 1.8 metre high privacy screens (first and second floors) to prevent overlooking of Nos. 4C, 4 and 6 Rowley Road. The third floor flats would also have rear balconies with a 1.2 metre high parapet wall and low level privacy screen atop to prevent any overlooking. The rear gardens of the ground floor flats have increased in size from the refused application.

The parking area to the north of the site would be retained and 18 marked out car parking spaces created (14 for the flats and 4 for Colsons Cottages). The vehicular access from Petitor Road would also be retained and resurfaced, with the addition of 4 more car parking spaces for use by surrounding properties. A gated pedestrian footway would be provided to the side of the Snooty Fox building leading to Fore Street. The main entrance to the building would face the parking area, whilst a secondary entrance would open onto the side footway. A bin store would be provided to the rear of the building adjacent to the footway and a cycle store provided for 14 bicycles.

The building would have a contemporary appearance, primarily white render walls with some timber panelling and a standing seam zinc flat roof. The height of the building would be 10.8m (12m including the lift shaft), stepping down to 8.6m to the east.

An independent viability assessment has been carried out showing that it is not economically viable to provide affordable housing as part of the scheme, partly due to the location of the development and quality of the surroundings; this also took into account that the existing access from Petitor Road would be resurfaced. It has also been agreed with officers that should the application be approved the available contributions generated by the scheme will be used towards enabling the redevelopment of Pavor Farmhouse, a derelict listed building on Fore Street

about 600 metres north of the site within the same ownership. Planning permission was granted recently to redevelop the listed building as two dwellings (refs. P/2013/0688 & 689), but an independent viability assessment showed that this scheme was not economically viable without additional external funding.

### **Summary Of Consultation Responses**

*Housing Services:* It would have been preferable if the site was retained for the completion of the development granted planning permission in 2004, as it would have delivered 12 affordable housing units. As the available contribution of approximately £42,000 has not been made available for affordable housing, the proposal would not assist in meeting Torbay's affordable housing need, which as of 23rd September stands at 3,115 households on the waiting list for rented accommodation and 323 for shared ownership.

*Highways/Strategic Transportation:* Highways and Strategic Transportation support the scheme. 20, not 14, secure covered cycle spaces are required. The proposed level of car parking could work in this location; however, the development must be promoted as a 'low or no' car development with first class provision of facilities for alternative travel and assistance to use them. Hence, a Travel Plan would be beneficial, which will help alleviate potential pressures for on road parking in part.

A sustainable transport contribution of £40,004.00 is required towards the provision and enhancement of cycle links in the vicinity of the site.

The parking proposes along the access road should not be formalised and the access road should remain loose and informal to help slow traffic. A give way line is required at the junction with Petitor Road.

*Engineering:* Drainage: The applicant has indicated that surface water from the development will drain to the main sewer system, however there is no indication a sustainable drainage option has been investigated. Soakaways should be investigated by carrying out trial holes and infiltration tests. If the ground is suitable the soakaway should be designed in accordance with Building Research Establishment Digest 365 and cater for the critical 1 in 100 year storm event plus an allowance for climate change. If the ground is unsuitable the developer should investigate the possibility of draining to the sewer system, which would have to be approved by South West Water. Details of infiltration tests must be submitted before planning permission can be granted.

*SW Water:* No objection.

*Building Control:* Unclear how staircase is ventilated, which will have implications on window design or vents for each floor. The hammerhead turning point for the fire brigade does not appear to comply with Table 20 and diagram

50. It is unclear where the boundaries are. Radon measures should be provided unless test data proves otherwise. Check public sewer locations with South West Water. Any drainage on the site should be investigated. The area for the proposed bin storage should be enclosed.

*Police Architectural Liaison Officer:* Disappointing designing out crime is not addressed in Design and Access Statement. The development should be built to Secured by Design (SBD) standards. Inadequate parking for the quantity of apartments, which may cause conflict. The parking bays should be marked as being allocated to the development and existing properties. The parking area has good surveillance from the front aspect of the development. The side access is not overlooked. A robust lockable gate no less than 1.8m high should be fitted at each end and as near to the building line as possible to prevent a recess and hiding place. This area should only be accessible by residents and should be well lit. External lighting should also be installed over the car parking area and main entrances. There should be no public access to the rear of the block. The access path adjacent to the Snooty Fox will need a robust lockable gate fitted for use by residents only. A tradesman entrance should be discouraged. A through the wall system should be considered for post. There should be no access onto the adjacent flat roof. Drainpipes should be designed so they cannot be climbed - flush fitted. The bin store should be made secure. Balconies should be designed to exclude handholds for climbing. The local Police report that they have not encountered many issues with the location.

The following consultation response was received for the previously refused application ref. P/2013/0698:

*RSPB:* There may be opportunities to enhance the biodiversity of the site by integrating nest boxes suitable for swifts into suitable locations on the side elevations. These boxes should utilise the maximum height of the building with clear airspace below. They may also be used by crevice roosting bats.

### **Summary Of Representations**

The application was publicised on 14.11.2013; therefore, the 21 day publicity period shall end on 05.12.2013. At the time of writing this report 9 days remain of the publicity period.

13 objections have been received to date (9 proforma letters). However, 45 people objected to the previously refused application (ref. P/2013/0698) and 10 people supported.

The following issues have been raised in objections to the current application:

- Overdevelopment
- Added traffic congestion
- Inadequate and inappropriate access

- Loss of privacy from overlooking windows and balconies
- Loss of light from higher roof line
- Overcrowding in restricted area
- Not enough parking - cycle parking provision will not stop vehicular access and traffic will remain a major problem
- Application does not state use of flats
- Access must be maintained to existing properties - access lane not owned by developer
- Concerns with safety of vehicular access onto Petitor Road from more traffic
- Impact on the conservation area
- Site already benefits from a previous planning consent to tidy the area
- Party walls, access routes and services need to be clearly defined and legally approved, as it may affect neighbouring properties
- Access for emergency vehicles and other services
- Revised plans have not changed from refused application – moving building by a few feet will not solve anything
- No change to size or design of building
- Building would still dominate skyline and impact privacy/light of Nos. 4C, 4 and 6 Rowley Road
- People standing on balconies will be able to view into windows of Nos. 4C, 4 and 6 Rowley Road
- Any new building should be no higher than existing boundary wall
- New building will be visible from Rowley Road and as far as main road (possibly Model Village) due to height
- 14 spaces is still inadequate for 27 flats
- 8 additional parking spaces for existing residents should be disregarded as these spaces are already in place
- No funds to introduce CPZ in area
- Car parking proposed on land developers do not own
- No s106

The following issues were raised in objections to the previously refused application (ref. P/2013/0698):

- Overcrowding
- Not enough parking
- Impact on privacy
- Access must be maintained to existing properties
- Concerns with safety of vehicular access onto Petitor Road from more traffic
- Impact on the conservation area
- Site already benefits from a previous planning consent to tidy the area
- Party walls, access routes and services need to be clearly defined and legally approved, as it may affect neighbouring properties
- Access for emergency vehicles

- Not against principle of redevelopment, but proposals are considered to be an overdevelopment
- Height and scale of the proposals is out of context and would be overbearing
- Loss of light
- Concern the site is properly drained
- Design not in keeping with surroundings
- Lack of amenity space and soft landscape
- Impact of construction vehicles on local roads
- Noise
- Light pollution - impact on neighbours
- Lack of energy efficiency measures
- Impact on infrastructure
- Lack of affordable housing
- Impact on archaeology
- Impact on boundary wall

The following issues were raised in support of the previously refused application (ref. P/2013/0698):

- Will clean up the building and surrounding areas
- Will improve the safety of the area

The representations will be sent electronically for Members consideration.

### **Relevant Planning History**

|                  |  |
|------------------|--|
| P/2013/0698/MPA: | Erection of four storey block of flats containing fourteen no. 1-bed flats and thirteen no. 2-bed flats and associated parking, following demolition of existing buildings: Refused 21.10.2013 |
| DE/2013/0025:    | Further details to follow (Pre-application Enquiry): Pending consideration   |
| P/2012/0654/CA:  | Demolition of part of rear section of building: Approved 01.10.2012  |
| P/2012/0471/PA:  | Formation of 2 dwellings for plots 33 and 34 with vehicle and pedestrian access - works commenced: Approved 13.08.2012   |
| P/2008/0597/PA:  | Alterations to previous approval (ref app no P/2004/2047/MPA) from 2 no 4 bed dwellings to 4 no 2 bed flats with alterations and extensions: Approved 02.06.2008                               |

- P/2004/2047/MPA: Alteration, Demolition In Part, Extension, Erection Of Dwellings To Form 41 Dwellings And 2 Shops (As revised by transport statement submitted 15/2/05 and plans received 21/2/2005): Approved 08.03.2005
- P/2001/1391: Residential Development To Provide 12 Houses With Garages, Car Parking And Vehicular And Pedestrian Access: Approved 26.07.2002
- P/2001/0938: Residential Development To Provide 12 Houses With Integral Car Parking Facilities And Access Road (In Outline) (As Revised By Letter Dated 17 September 2001 And Drawing Nos. 750.02 R1 And 750.03 R1 Received On 18 September 2001): Approved 28.06.2002
- P/2001/0369: Residential Development To Provide 12 Houses With Integral Car Parking Facilities And Access Road (In Outline): Refused 04.05.2001
- P/2000/1187: Revised Plans Depicting 12 Houses Instead Of 14 And Comprising Totally Revised Layout (In Outline) (As Revised By Plans Received 29/11/00 And 12/4/01): Approved 16.11.2001

### **Key Issues/Material Considerations**

The key issues are:

1. Principle of Development
2. Design
3. Impact on Character and Appearance of Conservation Area
4. Impact on Amenity of Neighbouring Properties
5. Parking
6. Access
7. Drainage
8. Levels of Amenity Space and Daylight to Proposed Ground Floor Flats

#### **1. Principle of Development**

The principle of redeveloping the site for residential development is acceptable, as this use has already been approved on the site previously. The Snooty Fox and area behind it, including the application site, was granted planning permission in 2005 for a development to form 41 dwellings and 2 shops. This development consisted of: converting the public house into 2 shops and 13 flats; converting the rear extensions (now demolished) into 19 terraced units (17 no. 2-

beds and 2 no. 3 beds); converting Colsons garage into 4 no. 2-bed dwellings; and creating 5 dwellings to the east (2 no. 3-beds and 3 no. 4 beds).

The 2005 approval has been implemented in part; Colsons garage has been converted into 4 dwellings and the 5 dwellings to the east have been built. The remaining parts of the 2005 permission have not been implemented and it is understood that the owners of the Snooty Fox now wish to retain it as a public house.

The owners of the Snooty Fox and the land behind have sold the central part of the site, subject to this application, to the applicants. During pre-application discussions the applicants stated it was unviable to implement the 2005 permission on this part of the site, which is borne out by the fact that it has remained unimplemented. This is due in part to the economic downturn since 2008. However, the applicants were interested in developing a block of flats on the site, consisting of a greater number of units than the approved scheme, but with a similar number of bed spaces overall. The applicants consider that 1 and 2-bed flats are more economically viable in this location, which has led to the current application being submitted.

There has been a longstanding desire by the Council's Housing Standards Team in Community Safety to tidy up the site (to demolish the rear extensions in particular), due to concerns over the area as an eyesore and health risk to nearby residents. The former extensions were not secure and seen as a fire risk. There had been instances of unauthorised access to the buildings and a bonfire was started in July 2012, which got out of control leading to the fire service being called out. Conservation area consent was obtained to demolish the extensions in 2012 and this has now been carried out.

## **2. Design**

The design of the block of flats is considered to be acceptable. The scale of the proposed development in terms of its height and massing is larger than the terraced and semi-detached housing that characterises the area in general, but is considered acceptable given the scale of the former extensions that occupied the site previously and the height of the Snooty Fox and other buildings which front Fore Street to the west. The site forms part of a substantial backland area that is large enough to accommodate a building of this scale. The building footprint would be smaller than the area covered by the previous extensions, and the height of the building - whilst higher than the previous extensions - would be lower than the Snooty Fox to the west and step down to fit in with the height of the adjacent residential property to the east. The relationship of the building with Nos. 4C, 4 and 6 Rowley Road will be discussed under (4) below.

The density of the proposed development is higher than the 2005 permission for this part of the site, due to the increase in the number of dwellings from 19 to 27.

However, in terms of people, the density of the proposed development is the same as the approved scheme, as both have 40 bedrooms.

The layout of the proposed development is appropriate. It would front onto the parking area to the north, providing natural surveillance of this area, which would enhance the safety and security of the site and its surroundings.

The proposed access arrangements are appropriate, making use of the existing vehicular access onto Petitor Road and providing a pedestrian link to Fore Street to the west, allowing residents to access the District Centre shops and facilities more easily.

In terms of the architectural style of the building, the proposed contemporary design is considered acceptable taking into account the surroundings. The National Planning Policy Framework (NPPF) states that policies and decisions should not attempt to impose architectural styles or particular tastes, however it is proper to seek to promote or reinforce local distinctiveness. It is considered that the proposed materials, primarily white render, would fit in with the character of the area and would reinforce local distinctiveness. There is no reason why a contemporary design would not be appropriate for the site, provided it improves the character and quality of the area.

There is an opportunity to improve the quality of the parking area to the north through appropriate hard and soft landscaping. A detailed landscaping plan has not been submitted with the application, therefore a condition would be required requiring these details to be submitted for approval.

Devon and Cornwall Police has recently appointed an Architectural Liaison Officer who has provided comments on the application. A number of sensible design improvements are suggested. These are minor and can be dealt with via condition.

Therefore, the proposals accord with Local Plan Policies CF2, BES, BE1 and BE5, and Section 7 of the NPPF.

### **3. Impact on Character and Appearance of Conservation Area**

The proposals would not have an adverse impact on the character and appearance of the Conservation Area, as the site is not visible from the surrounding public streets. Representations have been received stating the building would be visible from surrounding streets and possibly the Model Village due to its height, but this would be restricted to glimpses due to existing buildings and trees blocking views. It is considered that the proposals would have a positive impact on visual amenity by enhancing the appearance of the site and improving safety and security. The quality of the parking area could also be improved through an appropriate landscaping strategy, which should be a

condition of any planning approval.

Therefore, the proposals accord with Local Plan Policy BE5, and Section 12 of the NPPF.

#### **4. Impact on Amenity of Neighbouring Properties**

This issue was part of a reason for refusal of the previously refused application (ref. P/2013/0698). In response, the current proposals relocate the building 2.2 metres further away from dwellings to the rear of the site, i.e. Nos. 4C, 4 and 6 Rowley Road. This reduces the impact on the amenities of Nos. 4C, 4 and 6 Rowley Road and is considered to be acceptable. This is explained further below.

Whilst the distance of the proposed development from the dwellings fronting onto Petitor Road is sufficient to maintain their privacy (approx 28 metres), which is improved further by Colsons Cottages and other structures blocking views, the proposed development would be close to the dwellings fronting Rowley Road, which are at a lower level. Therefore, the impact of the proposed development on the outlook, privacy, daylight and sunlight of these properties must be given careful consideration.

Apart from a single skylight, Rowley Court to the south has no rear windows or gardens facing towards the site. Therefore, the proposed development would have no impact on the amenity of these properties. However, Nos. 4C, 4 and 6 Rowley Road all have rear windows and gardens facing towards the site, which could be impacted upon.

The potential for harm to the living conditions of the residents of these three semi-detached properties was identified at pre-application stage and the applicants were asked to design the scheme to ensure no harm to these properties. The potential for harm is mitigated significantly by the presence of the existing boundary wall, which is a high structure that is level with the eaves of these properties and topped with ivy. This wall provides an effective and attractive screen between the site and the three properties, and the applicants were asked to ensure its retention in the overall scheme design.

In terms of outlook, which is the visual amenity afforded a dwelling by its immediate surroundings, the general rule-of-thumb is outlook from a principal window will generally become adversely affected when the height of any vertical facing structure exceeds the separation distance from the window. In these circumstances, the structure could be described as having an overbearing impact on the dwelling. Nos. 4C, 4 and 6 Rowley Road each have principal windows facing the site on the main part of the house and on two storey rear extensions.

The separation distance of the windows on the main part of the house and the

proposed development is between 21.2 and 21.4 metres for the three properties. The separation distance of the windows on the two storey rear extensions and the proposed development is between 15.6 and 16 metres. The height of the proposed development measured from the ground level of Nos. 4C and 4 Rowley Road to the roof of the facing balconies is 10.2 metres. The height of the proposed development measured from the ground level of No. 6 Rowley Road to the top of the facing privacy screen is 9.4 metres.

As the building gets higher it steps further away from the neighbouring properties and at no point does the height of the building exceed the separation distance. This indicates that the proposed development would not have an overbearing impact on the neighbouring properties. In addition, this does not take into account the existing boundary wall, which would partially screen the proposed development. This has improved from the previously refused application, due to the building being relocated further away from the neighbouring properties and less of the building would be visible above the wall. Therefore, it is considered that the proposed development would not have an adverse impact on the outlook of Nos. 4C, 4 and 6 Rowley Road.

Notwithstanding the view that the proposed development would not have an overbearing impact, the inclusion of windows and balconies on the rear elevation of the proposed development could lead to direct and harmful overlooking of the rear windows and gardens of Nos. 4C, 4 and 6 Rowley Road, impacting on their privacy. Due to the boundary wall, there is most danger of overlooking from the second storey flats, as the third storey would be set further back. However, the balconies incorporate 1.8 metre high obscured glazing screens on the first and second floors to prevent overlooking, as well as obscured glazing screens to the top of the parapet wall for the third floor balconies.

It is considered that the privacy screens are sufficient to prevent any overlooking of the neighbouring properties and that they have been designed to appear integral to the overall design of the building. Therefore, the privacy of Nos. 4C, 4 and 6 Rowley Road would be protected. A condition is recommended to control the level of obscured glazing to ensure maximum screening is provided.

In terms of daylight and sunlight, it is considered that the proposed development would not have an adverse impact on Nos. 4C, 4 and 6 Rowley Road, as the site is located to the north of these properties. Therefore, the proposed development would not overshadow the rear elevations or gardens of these properties. Furthermore, the third storey is set back to allow more daylight into these properties.

In terms of other issues that might impact on the amenity of Nos. 4C, 4 and 6 Rowley Road, such as light pollution and noise, it is considered that these issues can be dealt with via appropriate conditions to any planning approval, e.g. preventing external lighting on the balconies and requiring soundproof glazing if

necessary.

The proposals are likely to overshadow Colsons Cottages during the afternoon in winter; however, on balance this impact is not considered significant enough to outweigh the benefits of the proposal, which includes tidying up the area to the benefit of Colsons Cottages.

Therefore, based on the above, the proposals accord with Local Plan Policies H9 and H10 with regard to amenity considerations and impact on neighbouring properties.

## **5. Parking**

This issue was a reason for refusal of the previously refused application (ref. P/2013/0698). In response, the current proposals increase car parking provision for the flats from 11 spaces to 14 spaces. This provides a parking ratio of 0.52 per dwelling compared with the parking ratio approved as part of the 2005 scheme of 0.68 per dwelling.

The level of car parking provision for the flats is considered acceptable and policy compliant, given the location of the development within the District Centre with easy access to public transport, shops and other facilities. Therefore, the proposals accord with the maximum parking standards in Local Plan Policy T25, and Section 4 of the NPPF.

4 more spaces would be allocated to Colsons Cottages, formalising their existing informal provision, and 4 more spaces provided along the access road formalising existing informal parking along the access road.

Sustainable Transportation has recommended a Travel Plan in order to promote the scheme as a 'low or no' car development. In addition, the number of cycle spaces should be increased from 14 to 20. These can be made conditions of any planning approval.

## **6. Access**

Highways and Sustainable Transportation have raised no objections to the proposed development in terms of access or impact on local highways. The proposed vehicular access to Petitor Road is existing and already in use. Its width is 5.6 metres at its narrowest point, which is sufficient for two vehicles to pass. There is also a pavement next to it for pedestrians. Therefore, the proposals accord with Local Plan Policy T26.

## **7. Drainage**

The application indicates that surface water would be drained into the main

sewer, which was the case for the 2005 scheme. However, since that application was approved the NPPF has been published, which promotes sustainability, including reducing the causes and impacts of flooding. Therefore, Engineering has recommended investigating whether soakaways would be suitable for the site. This can be dealt with via a pre-commencement condition. In the event that soakaways are not suitable, South West Water has raised no objection to the proposals.

## **8. Levels of Amenity Space and Natural Daylight to Proposed Ground Floor Flats**

This issue was part of a reason for refusal of the previously refused application (ref. P/2013/0698). However, the relocation of the building further away from the boundary wall has resulted in the rear gardens of the proposed ground floor flats increasing in size and natural daylight would be improved. It is considered that the proposed ground floor flats would have adequate levels of amenity in this regard.

### **S106/CIL -**

As stated above, an independent viability assessment was carried out that concluded that no affordable housing is viable within the scheme.

The site acceptability and sustainable development contributions have been calculated below. The Greenspace and Recreation contribution has been calculated for 8 no. 1-bed units to reflect the uplift in the number of units on the site compared to the 2005 scheme, as the amenity contribution for the 2005 scheme has already been paid.

|   |                   |
|---|-------------------|
| Waste Management (Site Acceptability)                   | £ 1,350.00        |
| Sustainable Transport (Sustainable Development)         | £37,181.67        |
| Lifelong Learning - Libraries (Sustainable Development) | £ 1,331.67        |
| Greenspace and Recreation (Sustainable Development)     | £ 491.67          |
| South Devon Link Road                                   | £14,755.00        |
| Administration charge                                   | £ 2,755.50 - 5%   |
| <b>TOTAL =</b>  | <b>£57,865.50</b> |

The independent viability assessment concluded that the scheme could afford to pay £42,745.50.

It has been agreed with the applicants that the £42,745.50 will be offset to part fund the redevelopment of Pavor Farmhouse as enabling development (in accordance with planning permission ref. P/2013/0688 and listed building consent ref. P/2013/0689).

Further funding is also required to meet the total deficit for Pavor Farmhouse, which will become available from another development site. Notwithstanding the higher figure calculated above for a 100% open market scheme, £42,745.50 is the figure that has been determined as viable by the independent assessor. A section 106 agreement is required accordingly and is being drafted.

### **Conclusions**

In conclusion, this application has the potential to lead to the redevelopment of two problematic sites: the area behind the Snooty Fox and Pavor Farmhouse. Notwithstanding the lack of a section 106 agreement, which is being prepared, it has addressed the reasons for refusal of the previously refused application (ref. P/2013/0698) by relocating the proposed building 2.2 metres further away from the neighbouring properties to the rear and increasing the level of car parking provision for the flats from 11 to 14 spaces.

Therefore, it is considered that the proposals would not harm the amenities of Nos. 4C, 4 and 6 Rowley Road and that sufficient car parking would be provided for the flats given the sustainable location of the site within the District Centre. In addition, the gardens of the rear ground floor flats have been increased in size improving the amenity space and natural daylight for these flats.

### **Condition(s)/Reason(s)**

01. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- (a) the parking of vehicles of site operatives and visitors
- (b) loading and unloading of plant and materials
- (c) storage of plant and materials used in constructing the development
- (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- (e) wheel washing facilities
- (f) measures to control the emission of dust and dirt during construction
- (g) a scheme for recycling/disposing of waste resulting from demolition and construction works
- (h) measures to minimise noise nuisance to neighbours from plant and machinery Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users.

02. No development shall take place until an External Materials Schedule has been submitted to and approved in writing by the Local Planning Authority

showing full details of all external building materials, including specification and images. The External Materials Schedule shall include the arrangements for the display of samples of materials on site prior to the approval of the same. The development shall be constructed from the building materials approved.

Reason: In the interests of design and in order to accord with saved Policy BE1 of the Adopted Torbay Local Plan 1995-2011, and paragraph 58 of the NPPF.

03. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be implemented as approved and shall include both hard and soft landscaping, including the treatment of the vehicular access and parking to serve the site.

Reason: In the interests of design and in order to accord with saved Policy BE2 of the Adopted Torbay Local Plan 1995-2011, and paragraph 58 of the NPPF.

04. No development shall take place until the following information has been submitted to and approved in writing by the Local Planning Authority:

(1) Evidence that trial holes and infiltration tests have been carried out on the site to confirm whether the ground is suitable for a soakaway(s). Trial holes and infiltration tests must be carried out in accordance with Building Research Establishment Digest 365. In addition, evidence demonstrating that the use of a soakaway(s) at this location will not result in an increased risk of flooding to surrounding buildings, roads and land. This should take into consideration re-emergence of surface water onto surrounding properties after it has soaked away. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are suitable for a soakaway(s) and will not result in an increased risk of flooding to surrounding buildings, roads and land:

(2) Detailed design of the soakaway(s) in accordance with Building Research Establishment Digest 365, including how it has been sized and designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change.

(3) Details of the surface water drainage system connecting the new building to the soakaway(s), which must be designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are not suitable for a soakaway(s) or will result in an increased risk of flooding to surrounding buildings, roads and land:

(4) Evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. None of the dwellings shall be occupied until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to comply with saved Policy EPS of the Adopted Torbay Local Plan 1995-2011 and paragraph 103 of the NPPF.

05. None of the dwellings shall be occupied until all of the car parking spaces and access thereto shown on the approved plans have been provided and made available for use. The car parking spaces shall be kept permanently available for parking and access purposes thereafter.

Reason: To ensure that adequate off-street parking and access thereto is provided and kept permanently available for use, in accordance with saved Policies T25 and T26 of the Adopted Torbay Local Plan 1995-2011, in the interests of highway safety, and in order to protect the residential amenities of the neighbourhood.

06. Cycle Parking

07. Travel Plan

08. Security design improvements, including lighting and gated access where relevant and provision of access to the footpath link to the side of the Snooty Fox, for the new the residents to access the district centre/Fore Street

09. Obscured glazing level on balcony privacy screens

10. External lighting

### **Relevant Policies**

|     |   |
|-----|---|
| BES | Built environment strategy                  |
| BE1 | Design of new development                   |
| BE2 | Landscaping and design                      |
| BE5 | Policy in conservation areas                |
| T2  | Transport hierarchy                         |
| T25 | Car parking in new development              |
| T26 | Access from development onto the highway    |
| HS  | Housing Strategy                            |
| H2  | New housing on unidentified sites           |
| H6  | Affordable housing on unidentified sites    |
| H9  | Layout, and design and community aspects    |
| H10 | Housing densities                           |
| H11 | Open space requirements for new housing     |
| CF2 | Crime prevention                            |
| CF6 | Community infrastructure contributions      |
| IN1 | Water, drainage and sewerage infrastructure |

- EP1 Energy efficient design
- EP6 Derelict and under-used land

# Agenda Item 9

## Application Number

P/2013/1239

## Site Address

Land Adjacent To Newton Road  
Edginswell  
Torbay  
Devon  
N/A

## Case Officer

Mrs Helen Addison

## Ward

Shiphay With The Willows

## Description

Construction of a public house/family restaurant (Use Class A4) with managers accommodation (Use Class C3) and staff facilities at first floor level plus car parking, landscaping and all associated development

## Executive Summary/Key Outcomes

This application is for the construction of a two storey pub/restaurant with a 55 space car park. The access to the site would be from Orchard Way, close to the junction with Riviera Way.

The proposal will generate some 15 full-time and 25 part-time jobs. The scheme will provide a leisure/commercial use to support the business park and surrounding development. There are a number of residential properties in the vicinity of the site, however, it is considered that the development will not have a detrimental impact on those neighbouring residents given their relative location and subject to the imposition of appropriate conditions.

The design of the building follows negotiations with officers and is contextual to the site and its surroundings, with a 2 storey dominant element and adjacent single storey wings. The external appearance of the building would reflect a traditional style with the use of brick, render, large chimneys and a slate style roof.

There are a number of ecology, landscape, trees, highways and general responses awaited at the time of writing this report and updates on these matters will follow in the run up to and at the committee meeting. Further public representations will also be reported verbally at the meeting.

### **Recommendation**

Subject to no new issues being raised during the consultation period that expires on 12th December, that have not been considered by the Development Management Committee, conditional planning permission be granted.

### **Statutory Determination Period**

The eight week target date is 11th January. The decision should be issued within this time period.

The application has been included on the agenda for this meeting as the January meeting falls after the expiry of the eight week target date.

### **Site Details**

The application site relates to a plot of vacant land situated on the south side of Newton Road that measures approx. 85 metres in width by 43 metres in depth. The site is on the east side of the junction with Orchard Way, which leads into the Edginswell Business Park. It is clearly visible in the street scene.

The ground levels on the site are slightly lower than road level. The site is relatively flat, although the levels do drop towards the south east corner. There is a post and rail fence along the boundary with Newton Road. Close to this there is an open drainage feature along the northern edge of the site. On the southern boundary with Edginswell Close there are a number of mature trees. There is a bus shelter and bus lay by adjacent to the site on the Newton Road. A vehicular access point to the site has been formed on Orchard Way.

The surrounding area is in a variety of uses. There are residential properties to the south in Edginswell Close and to the east of the site. On the eastern boundary of the site is a South West Water pumping station. To the west is the Edginswell Business Park. In the Torbay Local Plan 1995-2011 the site is shown as having a wildlife designation.

### **Detailed Proposals**

The application is for the construction of a restaurant and public house with a three bedroom managers flat at first floor level. 55 car parking spaces would be provided within the curtilage. The proposed building would be predominantly two storeys high with single storey elements on the western side of the building.

The design would be relatively traditional with pitched roofs over and projecting gable features. The applicant advises that the architectural style is derived from historical precedents including the coaching inn, tavern and public house. The design is intended to give the appearance of buildings that have developed organically over time. The use of smaller building elements, elevational

articulation, varied local vernacular details and materials are used to break up the elevations and add interest to the external form and appearance. The applicant also advises that raised roofs and contrasting roof tiles will be used to break up and give variety and visual interest to the roofscape. Chimneys are proposed to enhance the design and external appearance. Materials would be render, brick and contrasting slate style roof tiles.

The main entrance would be on the western side of the building adjacent to the car park. It would have a porch 'form' to aid recognition from within the site and around the building.

Two sitting out areas would be provided on the north and west sides of the building. There would also be a small outside play area. Of the 55 parking spaces 3 would be disabled spaces and 8 cycle spaces are also proposed. A service yard would be provided in the south east corner of the site to be used for storage of waste and recyclable waste.

At ground floor level a bar area, kitchen, seating areas and toilets are proposed. At first floor level the manager's accommodation is proposed with additional offices and toilet facilities.

A preliminary landscape masterplan has been submitted in support of the application.

### **Summary Of Consultation Responses**

In order that the application can be determined within the 8 week target period it has been included on the agenda before the consultation period has expired. Responses are anticipated from; Highways, Environment Agency, South West Water, Arboricultural Officer and Drainage. The majority of these should be available by the time of the Committee meeting.

*Natural England:* Refers to standing advice on protected species. Advises biodiversity enhancement and landscape enhancement should be considered.

### **Summary Of Representations**

One representation received to date that raises the issue of covenants on the land. It should be noted that a covenant is not a matter that can be pursued through the planning system and it not material to the determination of the application.

Further representations will be copied for Members and made available prior to the Committee meeting. Given that the expiry of the 21 day consultation period falls after the committee meeting, any decision would be subject to no new issues being raised in any further representations received after the meeting.

### **Relevant Planning History**

- P/2007/1743      Mixed Use Development Comprising Business Use Class B1, Car Showroom, Retail Warehouse And Residential And Public House/Restaurant (Class A3/A4) With Associated Highway Works And Car Parking.(In Outline) Land At Edginswell (Land At A3022 And At Junction Of Edginswell Lane And Newton Road) approved 6.6.08.
- 2008/1682      Mixed use development comprising business uses (B1); cafe/restaurant (A3) and specialist renal clinic (D1) with associated landscaping works, car parking and vehicle/pedestrian access. Land At Edginswell (Land At A3022 And At Junction Of Edginswell Lane And Newton Road)Torquay Approved 23.3.09.

### **Key Issues/Material Considerations**

The main issues are the principle of the proposed development on this site, the design and external appearance of the proposed building, highways, impact on the amenity of adjoining occupiers, drainage, ecology and landscaping.

### **Principle and Planning Policy -**

There is no specific allocation relating to this site in the Torbay Local Plan 1995-2011. The site is associated with the Edginswell Business Park due to its proximity and a historical inclusion in previous planning applications.

A commercial use would be considered appropriate in this location due to its association with the business park and its frontage onto the Newton Road. It is noted that under application reference P/2007/1743 a public house was previously granted outline planning permission on this site, (although this permission has now expired). The site is accessible by bus which is supported by Policy T1 in the Torbay Local Plan 1995-2011 that encourages access to non residential development by non car modes of transport. It is noted that the applicant advises that the proposed development would provide employment opportunities for approximately 30 people of which 15 would be full time.

### **Design and External Appearance -**

The scale and appearance of the proposed building would be appropriate in this location. The traditional design approach would reflect the form of development in nearby Edginswell hamlet to the south of the site. The use of this design would reflect the character of the locality and would make a positive contribution to the character of the area. The scale of the building would be appropriate for the context and size of the site.

The building needs to be a minimum of two storeys in height to reflect the established form of development in the locality and to provide a clear sense of identity to the building and its location. The materials palette using red coloured bricks would reflect the sandstone buildings and boundary walls in Edginswell (subject to a condition to ensure that the specification of the material is acceptable). As such the design of the proposed building would be consistent with the objectives of Policies BES and BE1 in the Torbay Local Plan 1995-2011 which seeks to ensure new development conserves or enhances the built environment.

**Accessibility -**

A Transport Statement and Travel Plan have been submitted in support of the application.

The proposal includes the provision of 55 car parking spaces to serve the site, 3 of which will be for disabled persons and eight covered cycle parking spaces. The site is on a bus route with a bus stop immediately adjacent to the site. In the Travel Plan the bus service to the site is classified as 'frequent' with an average of 13 buses per hour in each direction during peak daytime periods and 5 buses per hour during the evening and 5 buses per hour on Sundays. A number of the services that stop in this location link to nearby public transport hubs including Torquay and Newton Abbot. Torre Railway station is 2km from the site.

A pedestrian path from the bus stop on Newton Road to the main entrance is proposed in the application.

The Travel Plan states that from the predicted traffic flows as a result of the proposed development the site could generate in the region of 25 two way trips in the weekday PM peak and 36 in the Saturday peak. The Travel Plan states that the "likely level of traffic generated by the development proposal is modest and it is considered that the local highway network is capable of accommodating the likely increase".

The applicant advises that beer delivery comprises 1 HGV (articulated or large rigid) per week, which also takes away empty kegs, crates/pallets. A further vehicle collects recyclable materials (ie glass bottles) and refuse. Food deliveries comprise of a smaller rigid vehicle 3 times a week on alternate days delivering fresh produce and supplies for the restaurant. Delivery frequency can vary over the year to coincide with busier periods such as bank holidays and the summer months. A tracking plan for delivery vehicles within the car park has been submitted in support of the application.

The highway engineer's consultation response is awaited.

**Impact on amenity of adjoining occupiers -**

There are residential properties to the south of the application site in Edginwell Close and to the east of the site. The properties in Edginwell Close are separated from the site by the access road serving those properties and a number of garages between the site and the dwellings. The proposed building would be sufficient distance from these properties not to have an overbearing relationship. The properties to the east of the site are separated by a strip of land in use as a pumping station. The distance between the proposal and the dwellings to the east would mean that there would be no detrimental impact on residential amenity.

**Flood Risk -**

The application site is partially located in Flood Zone 3 as identified on Environment Agency Flood maps. A flood risk assessment has been submitted by the applicant which states that the site is protected from flooding by a flood relief culvert provided as part of the main infrastructure works associated with the wider development of the Edginwell business park. To ensure the application site is protected from flooding a number of measures are proposed in the flood risk assessment which include;

- Retention of flood relief culvert, and extension of the culvert to a low point situated in the northeast corner of the site.
- In accordance with the flood risk assessment submitted with application reference P/2007/1743 for the wider mixed use development the ground floor level of the building will be raised by at least 0.6m.
- A piled foundation solution will be used.

Consultation responses from the Environment Agency, SWW and the Council's Drainage engineer are awaited.

**Ecology -**

In the Torbay Local Plan 1995- 2011 the site has a wildlife designation which is as a OSWI (other site with interest).

A phase 1 habitat survey and ecology report have been submitted in support of the application. This identifies the main habitats of the site as species poor unmanaged grassland and patchy bare ground with colonising vegetation. The southern and eastern boundary vegetation lies outside the site and would remain unaffected by the proposals.

In the habitat survey it is identified that a shallow buried water drain is being used by a badger. In the survey fresh badger runs and two small dung pits were identified. The habitat survey recommends a license is secured from Natural England to close the sett. Bat surveys indicate the use of the tree line by

pipistrelle bats and occasional use by lesser horseshoe bats and bats of the Myotis genus. Single passes of greater horseshoe bat and noctule bat were recorded. A recommendation is made with regard to the lighting scheme to minimise disturbance of the foraging/commuting habitat along the tree line and hedgerow along the south of the site. Reptile surveys revealed a small population of slow worms to be present on the site. It is recommended that the slow worms are relocated to a receptor site.

#### **Landscape -**

The submitted landscape masterplan shows five trees in the south eastern corner of the site would be felled. These trees are all sycamores. A tree survey report has been submitted in support of the application that contains an assessment of all the trees on the site. The landscape masterplan indicates new tree planting would take place in the south west corner of the site and within the car park. A number of new hedgerows would be provided, particularly adjacent to the northern boundary with Newton Road. The arboricultural officer's advice on landscape is awaited.

#### **Energy efficiency and lighting -**

A mechanical and electrical services energy recovery statement has been submitted in support of the application. In the report sustainable technology such as installation of a wind turbine and an air and ground source heat pumps are considered. It is concluded that neither of these options would be appropriate in this location. An air cooled heat pump with heat pump boilers is suggested as having good potential for generating a surplus of energy over time and would reduce the dependence on gas. This arrangement would be utilised for conditioning of the kitchen ventilation. In addition the hot water cylinder would be provided with a twin coil to allow the future installation of a solar panel array.

An indicative layout of lighting plan has been submitted and a plan showing car parking lighting levels. External lighting would be controlled by photocell 'ON' control and a time switch 'OFF' control.

#### **S106/CIL -**

The applicant advises that the proposal will create 15 full time jobs and 25 part time jobs. In accordance with the Council's SPD "Planning contributions and affordable housing: Priorities and Delivery" the mitigation for job creation would offset the requirement for any contributions.

#### **Conclusions**

In conclusion, the proposed development of a pub/restaurant would constitute an appropriate use in this relatively prominent location adjacent to the Edginswell Business Park. The site is on a frequent bus route that connects to the station and to the town centres of both Torquay and Newton Abbot. The scale and design of the proposed building would make a positive contribution to the townscape of the area.

The traditional appearance would reflect the form of buildings in the nearby Edginswell hamlet. The use of red coloured brick and render would be consistent with the materials palette in Edginswell. Subject to no adverse issues being raised by consultees or in representations the proposal would constitute an acceptable form of development on this site, that would accord with the objectives of Policies in the Torbay Local Plan 1995-2011.

**Condition(s)/Reason(s)**

01. landscape scheme submitted
02. landscape scheme implemented
03. parking provided and kept permanently available
04. alterations to culvert completed to specified timescale
05. external lighting plan
06. floor level to accord with submitted plan
07. details, timing and effort of reptile relocation submitted
08. European Protected Species licence if necessary
09. tree protection
10. Materials samples
11. Hours of opening
12. Footpath link from bus stop to be provided prior to first use of the site

**Relevant Policies**

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